



# MATERNITY BENEFITS ACT 1961 WITH AMENDMENT OF 2017

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## ABSTRACT

Through judicial interpretations and analysis of the 2017 updated legislation, this research paper attempts to investigate shifting patterns in women empowerment in the country. Women's participation in the labour force and the obstacles they encounter in the workplace. The primary goal of maternity allowance is to retain the mother's dignity, protect women's health, and assure the entire protection of children. Compulsory paternity leave, which helps guarantee that fathers and mothers share parental obligations and increases men's involvement in the important early stages of baby development, would also be a focus of the study. It will also examine the scope of the legislation, which has been expanded to include adoptive moms, as well as data on the number of women who have left the workforce and whether or not there have been any changes as a result of the amendment.

**KEYWORDS:** Maternity, Women Empowerment, Paternity.

## INTRODUCTION:

The maternity benefit act is one of the best initiatives the government has taken to protect women's employment throughout the maternity phase. It's essentially obtaining the benefit of receiving full compensation while absent from work, and under government regulations, every firm with ten or more employees must comply with this act. Maternity benefits should be designed to provide work for women in specific institutions for a specified time period prior to and following childbirth, in addition to other benefits. Women's participation in the job market after childbirth has a detrimental effect on the labour market, and one factor to consider is that women's participation in the labour market has expanded dramatically in recent years, particularly in metropolitan areas. As India strives to develop a more gender-friendly work environment, implementation is accelerating in order to generate a more favourable work environment. Given the increasing number of women working in various professional fields and attempting to provide financial stability for their families and stand on their own two feet, it was imperative to maintain and safeguard their health, as well as the health of their forthcoming child. The primary goal of maternity benefits is to protect women's self-esteem for motherhood, to secure the child's safety, and to protect women's health. With the increase in the number of women working in the public and commercial sectors, it has become critical to assist working women with maternity leave and other benefits. Initially, several acts operated in different regions; there was no centralised act to ensure efficient operation; as a result, the maternity benefit act of 1961 was created, and women may now work freely without fear of losing their job. This legislation would protect women's rights from being reduced because childbirth is a normal occurrence, the government and the rest of society should demonstrate some sensitivity and respect, and all prejudices against women's employment and pregnancy would be minimised. When a woman is faithful and committed to her career and to the firm, it is the employer's moral obligation to help her emotionally and financially through this vulnerable moment. The maternity benefit statute applies to all businesses, including plantations, industries, government agencies, and retail establishments.

## ELIGIBILITY:

A woman must have worked in a business for a minimum of eighty days in the previous twelve months in order to be eligible.

## MATERNITY BENEFITS:

Paying maternity benefits at the rate of the average daily salary for the time of real absence immediately before the day of her delivery or for the day of her delivery itself."

A woman is eligible to take up to 26 weeks of maternity leave. She might take up to eight weeks of leave before giving birth and the remaining time after.

A woman who has two children who are still alive is entitled to 12 weeks of maternity leave.

## CRÈCHE FACILITY:

Businesses with fifty or more employees are required to have a crèche within a specified distance. The employer should permit the woman to visit the crèche four times daily, including the rest period.

## PROTECTIONS:

Employers must notify women in writing of potential maternity benefits and eli-

gibility when they join.

If the nature of the employment allows, eligible women may be allowed to work from home.

A woman cannot be fired for taking maternity leave, and a woman on maternity leave cannot be served with a termination notice.

During a woman's maternity leave, her employment terms cannot be amended to her disadvantage.

During the six weeks following their delivery, miscarriage, or medical termination of pregnancy, women should not work in any establishment.

Women on maternity leave are entitled to their previous pay while on leave.

## SIGNIFICANCE:

The increase in paid leave from 12 to 26 weeks is a great step in the right direction, and it aligns with WHO's recommended period for such leave. This time frame will allow the mother to properly care for herself as well as the infant. Maternal care is critical for a child's healthy growth and development; if a child is deprived of care and love at such a young age, the child may be vulnerable to infectious diseases, mental health problems, and malnutrition; it may also have a significant impact on the child's growth, which can have deadly consequences in the future and easily destabilise a normal family. One of the most notable characteristics of this act is that adoptive moms will now be able to benefit from it, and India is now only second behind Canada and Norway in terms of the number of maternity benefits granted to female employees.

## THE INDIRA GANDHI MATRITVA SAHYOG YOJANA (IGMSY):

Additionally, it is referred to as the Conditional Maternity Benefit (CMB) system. The scheme provides recourse for women who are compelled to work up to the final stages of pregnancy and who return to work shortly after delivering. The proposed system IGMSY's primary objective is to improve the health and nutritional status of pregnant and nursing women, as well as newborns, by:

Promoting (optimal) IYCF practises, especially early and exclusive breastfeeding for the first six months;

Contributing to a more supportive environment by giving economic incentives for pregnant and nursing mothers' health improvement;

Promoting safe delivery and lactation by promoting proper practises, care, and service utilisation.

Rajiv Gandhi National Crèche Scheme for Children of Working Mothers - This scheme is implemented by three government agencies, namely the Central Social Welfare Board, the Indian Council for Child Welfare, and the Bhartiya Adim Jati Sevak Sangh, with user fees of Rs. 20 per month for BPL families and Rs. 60 per month for other families."

## GENDER NEUTRAL ASPECT OF MATERNITY BENEFITS ACT:

The 1961 Maternity Benefits Act is primarily directed at women. Today, women are employed in a variety of settings, including large multinational corporations,

mines, and factories, yet the amount of work performed by women cannot be compared to that of men. Managing their home, family, and children while also juggling office employment is a significant task. Prior to 1961, numerous state-level acts addressed women's issues, such as preventing miscarriages and prohibiting women from carrying high weights. Thus, the act offered leave for pregnant women both before and after the baby is delivered. The requirements were extremely dissimilar in each state, and thus a central act was enacted to eliminate disparities in maternity benefits and to unify all provisions, which was the maternity benefit act, 1961. By the end of 1972, the statute had been expanded to cover all of India, but it required further amendments. The act was significantly amended in 1988; it was the act's most significant amendment.

The act's purpose and scope apply to all organisations, including factories, plantations, mines, government organisations, legislative groups, and businesses. The law mandates businesses and organisations with at least ten employees to provide female employees with paid leave. The Maternity Benefits Act, 1961 was enacted to regulate women's employment in certain establishments during the period preceding and following childbirth. While the government's intention to provide 26 weeks paid leave was admirable, it paved the way for a new problem: workplace discrimination against women. Today, pregnant women endure stigma and antagonism in the workplace and continue to be vulnerable following the act.

While our legislation is replete with pleas for gender neutrality, the Maternity Benefits Act proposes gender neutrality in order to ensure that benefits are given equally. The current act demonstrates the legislature's stereotyped belief that women are primarily responsible for the care and sustenance of children. It has long been assumed that the father's responsibility is restricted to providing home and earning money for the family, as well as providing security and funding the children's education. It has plainly neglected the father's position in the inner emotional circle, relegating him to the role of earner and provider, while relegating the mother to the role of primary caregiver. "While traditionalists feel that child care must remain the mother's role, in reality, it is shared by both sexes. Until and unless we gender-neutralize childcare, talented, worthy, and competent women will continue to leave the workforce, resulting in a loss to the company and society. To gender-neutralize the policy, to allow men to care for and bond with their children, and to ensure that women have choice and flexibility in their maternity leave. What a woman requires is flexibility, choice, and time for her career, while the father requires increased family inclusion. By establishing paternity leave or a more expansive umbrella term Family leave will resolve significant issues associated with child care. India does not provide paid paternity leave", such desperation places fathers in a difficult position when it comes to caring for and feeding their newborn children. "An initiative has been made in Parliament to pass the Paternity Benefits Bill, 2017," but nothing has been verified to far. As of present, nothing in the Maternity Benefits Act refers to paternity leave, as stated in the Maternity Benefits Act's "Statement of Objects and Reasons." If the paternal benefits act is passed, it will have a significant positive influence on gender discrimination, as this is what this generation is fighting for and what feminists desire. However, the statute has two flaws: first, it continues to restrict leave for third children, and second, payment of maternity benefits under the Act is the employer's exclusive responsibility, even under the new programme. Equality is a little word, but it is something that every part of the planet, in every industry, is striving for. "Although the Act states that an employer cannot discharge a woman for taking leave in accordance with the Act's directions, "nor deny her benefits under the Act due to procedural irregularities," the Act "does not address issues that arise during the pre-employment and post-pregnancy periods." This discussion becomes critical because there is no section or rule that restricts. Novartis, a pharmaceutical corporation, announced 26 weeks of paid parental leave that is gender neutral. This means that Novartis will provide 26 weeks of paid paternity leave to its male employees. "Prior to Novartis, Zomato provided 26 weeks of paid parental leave to both mothers and fathers, as well as adoptive and same-sex parents. Now is the moment to break the jinx and ensure that the maternity benefits act is gender neutral. "The ILO Report also emphasises the need and importance of parental leave comparable to that of maternal leave, as well as various other job advantages that must be shared equally."

## CONCLUSION:

Women have historically been exploited and treated unequally, and have struggled to preserve their position in this patriarchal society. The fall in women's participation in the labour force is extremely discouraging. The cause for this continues to be a lack of awareness of their rights and the limited remedies available. Gender equality and providing proper facilities for women at work are issues of social justice that should be taken seriously by everyone. Businesses in India must address their employees' work-life balance. Organizations must recognise that taking care of employees benefits them since it encourages new employees to take the initiative to collaborate with them, which benefits the company as well. Nowadays, workplace culture is critical; else, employees will leave, boosting competition for the firm. Women breaking free from the confines of their homes and establishing themselves in every sphere of endeavour has never been simple; some leverage should be offered. Thus, while the maternity benefits act is a commendable government move, it still need significant amendments. The act's application should be made expressly available to the unorganised sector and domestic help, so abolishing the act's section 2 restriction of ten employees. The law should expressly provide for paternity leave, as this will reflect the legis-

lation's gender neutrality and provide a level playing field. The government should make an attempt to harmonise the maternity allowance provision in labour legislation. For example, the 1948 "Employee State Insurance Act," the 1955 "All India Service (Leave) Rules," the 1972 "Central Civil Servants (Leave) Rules," the 1948 "Factory Act," and the 2008 "Unorganized Workers" The Social Security Law and other bills differ in their extent of protection, welfare, and financing; all of these laws must be consolidated to harmonise the many interests in India.

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